

Center for Regulatory Effectiveness

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FDIC Hearing on the Deposit Insurance Application of Wal-Mart Bank (In Organization)

Introduction

Good morning. I am Jim Tozzi of the Center for Regulatory Effectiveness. We are a regulatory watchdog. What that means is that we monitor federal compliance with the “good government” laws that regulate the regulators. Like any good watchdog, we are not passive. When necessary we intervene in regulatory proceedings to ensure federal compliance with those good government laws.

The good government laws include the Data Quality Act,¹ which will be the focus of my remarks, as well as the Paperwork Reduction Act, the Executive Order on regulatory review, and others laws that govern the regulatory process.

The Data Quality Act sets standards for virtually all information disseminated by federal agencies. The law also allows “affected persons to seek and obtain correction of information” which does not comply with the Act and its implementing guidelines.

The FDIC’s Decision Must Be Unbiased

Now when I talk about information quality, just what does that mean? The law defines three components of data quality; objectivity, utility and integrity. The Office of Management and Budget, which is in charge of agency DQA compliance, has defined objectivity as including “whether disseminated information is being presented in an accurate, clear, complete, and unbiased manner.”²

This a very important point that needs to be emphasized since the requirement for unbiased information will be at the core of this agency’s decision on deposit insurance for Wal-Mart Bank.

The FDIC’s own Data Quality guidelines state that the “FDIC’s information products are presented in an unbiased, clear, complete and well-documented manner.”³

Just what does “unbiased” mean? The Cambridge dictionary defines bias as “a tendency to support or oppose a particular person or thing in an unfair way by allowing personal opinions to influence your judgment.”⁴

¹ 44 U.S.C. 3516, note.

² 67 FR 8459, col. 3.

³ <http://www.fdic.gov/about/policies/index.html>.

⁴ <http://dictionary.cambridge.org/define.asp?key=7255&dict=CALD>.

What unbiased means in terms of this proceeding is that the FDIC must base its decision on granting deposit insurance to Wal-Mart Bank using the same criteria and standards that the FDIC has applied to other applications from proposed industrial banks, such as Target Bank.⁵ Were this agency to assess Wal-Mart's application differently than it assessed the application from its competitor Target, that would constitute bias and the information dissemination including or based on such bias would be biased information.

The FDIC's definition of objectivity also states that "The Corporation's methods are transparent unless it must protect proprietary or confidential information. Transparency is achieved by referencing sources, identifying statistical methods employed, and utilizing sound research and analytical techniques."⁶

Thus, the process, the analysis, the standards and the data used by FDIC in deciding this matter regarding Wal-Mart Bank need to be both transparent and unbiased.

Third-Party Data Subject to DQA Standards

With respect to the data used in evaluating the Wal-Mart Bank application, the FDIC must determine that all of the data on which it relies, *including information provided by third-parties* through oral and written comments, *must* comply with the standards set by the Data Quality Act and the OMB and FDIC information quality guidelines.

The Department of Transportation provided the most succinct statement of this third-party DQA compliance requirement in a *Federal Register* notice when they informed the public:

*Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, **it must meet the information quality standards set forth in the OMB and DOT Data Quality guidelines.** Accordingly, we encourage you to consult the guidelines in preparing your comments."*⁷

Thus, while the FDIC is obliged to consider all views presented, this agency can only rely on and use that information which complies with the DQA and implementing guidelines. Should the FDIC not adhere to all of the requirements of the Act and guidelines, it could subject their decision to a Request for Correction.

Conclusion

- ▶ The FDIC is required by law to reach an unbiased, transparent decision on Wal-Mart Bank which relies solely on information complying with the Data Quality Act.

⁵ <http://www.fdic.gov/regulations/laws/bankdecisions/DepIns/target.html>

⁶ <http://www.fdic.gov/about/policies/index.html>.

⁷ 70 FR 49244. [Emphasis added.]